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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/695,116      | 10/24/2000  | Vivek Thappa         | THA-P-00-001        | 4881             |

7590 10/01/2002

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EXAMINER

GHAFOORIAN, ROZ

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3763     | 10           |

DATE MAILED: 10/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

|                              |                            |                  |
|------------------------------|----------------------------|------------------|
| <b>Office Action Summary</b> | Application No.            | Applicant(s)     |
|                              | 09/695,116                 | THAPPA, VIVEK    |
|                              | Examiner<br>Roz Ghafoorian | Art Unit<br>3763 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 May 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 9.                    6) Other: \_\_\_\_\_ .

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## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-14 in Paper No. 9 is acknowledged.

The traversal is on the ground(s) that the objections made by the examiner have been addressed by the newly amended claims. This is found persuasive therefore all the claims (1-20) will be examined.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S Patent No. 6059802 to Ginn.

Ginn teaches a catheter introducer device comprising of a cylindrical body defining a cross with a length designed between a pointed end 26 and a flat end 30. A

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first part 24 and a second part 22, wherein the first and second part defines the cylindrical body. Locking mechanism figs 6-7 where the first part and the removable second part are locked together. The pointed end of the cylindrical body gradually tapers to the cylindrical portions. A recess portion 40 along the length of the first portion 22 and a protruding element 42 defined in shaped by a right angle located along the recessed portion of the first part. The recess portion 40 may readily accept the protrusion 42 along the length of the removable second part. A first hole 78 located a distance from the pointed end of the cylinder. A leg 66 attached to the bottom end of the cylinder. A second hole 70 located on the leg of the cylinder and a thread connected (locking mechanism) 80 and 74 to the cylinder form the second hole to the first hole. A groove or plurality of holes 38 cut into the cylinder.

3. Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S Patent No.5759150 to Konou et al.

Konou teaches an introducer catheter device comprising of a first part 62 and a second part 61 where in the fist part and second part define a cylindrical body and the second part is removable. Locking mechanism located at the flat end of the cylinder. Piercing the skin and the subcutaneous layer of the body with the pointed end of they cylinder body, pushing the cylindrical body through the subcutaneous layer wherein the cylindrical body is exposed outside an exit sire of the body; removing the second part of the cylindrical body attaching a catheter 201 to the first part of the cylindrical body pulling the catheter through the subcutaneous layer fig 53 and once the operation is

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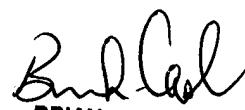
complete the first part of the cylindrical body is removed form the body. There are suture sites 936 for the instrument to be secured to the body..

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
September 18, 2002

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700